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ITEM FOR DAILY LOG - 1 November 1951

OFFICE OF GENERAL COUNSEL

2. Mr. Fisher, General Counsel to the Comptroller General, called me on Wednesday evening to ask if we felt there was any problem in payment by CIA of the retroactive portion of the pay increase. I said we had considered the matter and thought there was no problem.

At his suggestion, Mr. Saunders and I went down this morning to discuss it, with representatives of AEC present since they had already made the payments and were faced with the same query from Mr. Fisher. Mr. Fisher was friendly and agreed that in all equity our employees should get the retroactive payment but he was worried about our legal authority to do so. The pay raise is in the Classification Act from which CIA is specifically exempted. The amendment giving the raise included several other agencies outside the Classification Act by name, but did not include CIA or AEC. Mr. Fisher's point, therefore, was whether specific statutory authority was required to make past payments or whether the general authorities for ourselves or AEC could be evoked. I pointed out that at the time the Classification Act was passed in 1949, we recommended that provision be inserted after our exemption providing that we should and would comply with the provisions of the Act, but still be taken out of the control of the Civil Service Commission. The House committee informed us they did not propose to include our suggestion. However, our letter informed the Committee that in any case we intended to adopt and comply with the provisions of the Act. This letter had the approval of the Bureau of the Budget. Also, we have a formal exchange of letters with the Civil Service Commission in which we agree to apply their standards and the rules of the Classification Act for pay purposes. I informed Mr. Fisher that in our opinion there was no legal restriction on what we could do in regard to classification and salary scales, but that we had informed all the appropriate agencies, including his office, that we would use the standards of the Classification Act. In addition, I stated that in our opinion section 10(2) of P.L. 110 was inserted for the specific purpose of allowing us to attempt legislation of general application in regard to personal services and other matters when the Director approved. I said we had had the Director approve the retroactive payment. Mr. Saunders and I further reminded Mr. Fisher of the very broad authority under Section 10 of P.L. 110 to expend funds without regard to other provisions of laws and regulations relating to Government funds. In this respect, I stated that we had complete

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administrative control over salaries and wages and noted that Mr. Fisher had approved a retroactive arrangement somewhat similar in a case where administrative discretion was given to an Agency. Mr. Fisher stated that this had to do with adoption of a contract negotiated with a union. I stated that it was our feeling that we had a contract with our employees to treat them on the same basis as other Civil Service Employees or at least no worse, and that Agency issues reflected this commitment to employees. I also stated that it was our general impression that the Congress thought it had given us such a broad grant of power that we would not come back for any additional authorities in fiscal matters as we could do anything that was necessary and proper. Mr. Fisher agreed to the desirability and the propriety of the payments, but seemed seriously concerned about their legality. He asked us to hold up any announcement of retroactive pay until Monday, November 5. If he must give a negative answer, we would still have time to explore the matter with the Congress in order to clarify the situation.

LAWRENCE R. HOUSTON  
General Counsel

cc: DD/Administration  
Comptroller ✓

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